

THE BENEFITS OF PROMOTION AGREEMENTS FOR LOCAL GOVERNMENT, CHARITIES,  
TRUSTS AND OTHER LARGE LAND-OWNING INSTITUTIONS.

As Steve reported in last month's thought piece, the need to deliver more homes across the country is agreed by all major political parties as being imperative for our long-term economic and social stability - with the likes of Labour's Lyons Review targeting over 243,000 homes a year in England alone by 2020 (that's more than double the entire delivery of 2013).

Of course, inextricably linked to the delivery of more homes is the release of more suitable land on which to build them (be it green field land or previously developed land). The likes of the National Planning Policy Framework (NPPF) has sought to 'boost significantly' the release of such suitable land and thus the delivery of more homes by way of its presumption in favour of sustainable development. This is alongside the NPPF's requirement for an area's housing needs to be objectively assessed in full - with this need to be met by way of a 5 year rolling supply of 'deliverable' land (i.e. preferably with planning permission!).

With the NPPF's aspiration for a step-change in housing delivery, there has been strong encouragement from Central Government in recent times for major landowners such as local authorities to release surplus land assets more readily to help remedy the nation's housing shortfall.

However, the complex disposal process and often controversial nature of housing development has historically been a key barrier to the release of land owned by Local Government. It is a similar case for other large landowners such as religious institutions, trusts, charities and large historic estates.

Here at Richborough Estates we are working on behalf of all of the above types of landowner to help them navigate the complex and costly planning process and ultimately achieve best value when they dispose of their asset.

This thought-piece sets out some of the key factors that have historically guided (or blocked) the above parties in releasing their surplus land assets – and importantly, how we can help through the use of Promotion Agreements rather than more traditional method such as Options or subject-to-planning deals.

***Local Authorities and other Public Sector Bodies – Section 123 of the Local Government Act and Best Consideration***

Section 123 of the Local Government Act 1972 places a statutory duty on local authorities to achieve best value in the context of land disposals. It says that a local authority may dispose of land held by it in any manner it wishes, provided it is not for a consideration 'less than the best that can reasonably be obtained'.

This usually means that local authorities look to competitive open-market sale in order to obtain the 'best consideration' (i.e. true open-market value).

Historically, this has resulted in the majority of local authority sites which have potential for housing development being offered to the market via a simple 'subject to planning' contractual arrangement – or straight freehold purchase with overage to capture any associated planning gain.

However, the above methods do not ensure that the asset value is being maximised by way of pre-sale value enhancement mechanisms – most notably securing a planning consent that will best increase the value of the land. Simply put, if outline planning consent can be secured by the landowner and then sold with the benefit of this permission, they will much likely stand a better chance of increased bid value in their subsequent open market sale.

However, for local government, in an era of tight budgets and the need for significant cost savings, the idea of risking tax payers money on expensive planning applications and local plan promotions which can easily run in to the £100'000's (or beyond double that if appeals and legal challenges are pursued). This is understandably a financial risk many are unwilling to take.

We are therefore working on behalf of local authorities to help them navigate this uncertain, complex and expensive process.

A relevant recent example is our Ibstock project on behalf of Leicestershire County Council. Following being appointed by the County after a competitive procurement exercise, we have recently secured planning consent on surplus County Farm land for 142 dwellings in the village (North-West Leicestershire District Council) – and we will be jointly going to the market soon with a view of maximising the land value by way of open-market sale. We understand that this is the first successful local authority promotion agreement project in the country.

This entire process has been in partnership with the County Council and their Estates Officers, ensuring that they retain control and input in to the entire proceedings – i.e. signing off of all consultation strategies / the planning application / the marketing strategy etc. This is a fundamental aspect of promotion agreements – that it is a genuine partnership between landowner / promoter in their aspiration to achieve best value, and an aspect particularly important for Councils given their sensitive public profile.

So why the Promotion Agreement route for Councils rather than the more traditional methods of site disposal?

There are many benefits of Councils (and other Governments bodies) having their surplus land assets promoted by our company by way of a Promotion Agreement.

The key point is that we can help deliver significant capital receipts at no financial risk to the taxpayer as we take on the entire financial risk.

Secondly we can utilise our expertise in the field of housing development, planning and strategic land to ensure the best possible planning permission is obtained in the quickest timescale possible. This can be either immediate planning applications where local / national policy allows; or longer-term Green Belt / Local Plan allocation promotions over a number of years.

Finally we can pull-on our experience in land sales and negotiation to ensure that the marketing strategy and eventual exchange and completion with a house builder runs as smoothly as possible.

With local authorities holding / government bodies controlling vast swathes of land in England and the growing need to release more suitable land for development, there is pressure on them to be more pro-active in disposal of surplus assets. However, such disposals, if done via the Promotion Agreement route, enables them to achieve the best value possible and thus help support economic growth in their constituencies and the country more widely, along helping them significantly reduce their budget deficits.

Promotion Agreements are therefore increasingly being seen as a better option for local authority Estates Departments over traditional Options or subject to planning arrangements.

### ***Charities and Trusts and the Charities Act requirement for Best Value***

In a similar vein to Section 123 of the Local Government Act, Charity land and property must normally be sold or leased for the best price available. Once again, this usually means the open-market rate. If not, the Charity Commission (in most circumstances) has to authorise the disposal.

So much like the benefits to local government, the benefit of promotion agreements for charities and trusts is that market value is obtained by way of open market tender - thus ensuring that true best value can be demonstrated.

Much of the above is also relevant to other large land-owning institutions or estates who have had (and will continue to have) a long-standing involvement in their communities. Clearly, these parties have sensitive public profiles much the same as local authorities or charities - and therefore the manner of a site's promotion is of upmost importance to them

as it ensures they leave a lasting positive legacy. Land-owning religious institutions such as regional Dioceses, and large historic rural estates being obvious examples.

### ***How We Can Help***

Here at Richborough Estates we have a consistent track-record of delivering successful outcomes for Local Authorities, charities, trusts, religious institutions and large estates.

I am a former County Council Estates employee whose role it was to maximise surplus land assets to raise capital receipts for the – so I have a first-hand understanding of the complex disposals process / regulatory regime that councils are bound by, along with the inevitable politics that goes hand-in-hand with local government land disposal. As such, we very much understand the political sensitivities that surround local authorities (or any large land-owning institution for that matter) in the release of their assets for development.

Coupled with our extensive knowledge of strategic land development and the house building industry, we can offer a very attractive service to the above parties which will deliver substantial capital receipts for the taxpayer or trustees, over-and-above what may be achievable using traditional disposal methods.

*Whatever site you have, be it private land, local authority land, brownfield or greenfield, we at Richborough Estates are ready to react to any new opportunities that may arise as the business continues to grow and expand our services for large land-owning institutions.*

***Richborough Estates, December 2014***